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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,586	02/20/2004	Charles Randall Yates	2002-051	7723
54472 7590 12/29/2009 COATS & BENNETT/SONY ERICSSON 1400 CRESCENT GREEN SUITE 300 CARY, NC 27518				
			EXAMINER GONZALEZ, AMANCIO	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 12/29/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,586

Applicant(s)

YATES ET AL.

Examiner

AMANCIO GONZALEZ

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 42-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 42-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The applicant's arguments filed on 10/19/2009 have been fully considered but are not persuasive.

The applicant's arguments raise the issue that neither or the cited prior art references teaches or suggests, alone or in combination, every limitation or the independent claims.

In response to applicant's arguments, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of cited prior art references teach the subject matter or the claimed invention, e.g., a push-to-talk server for establishing an ad hoc session in a wireless network, a presence server, a group server (see Willey: paragraph [0044]: FIG. 3 is a block diagram of relevant system components 300 pertaining to ***Push-to-talk (PTT) over Cellular (PoC) communications which the mobile device may utilize.*** System components 300 include user equipment (UE) 302 which represents a mobile device, a ***Push-to-talk over Cellular (PoC) server*** 304, an access 306, a ***Group and List Management Server (GLMS)*** 308, an IP Multimedia Subsystem (IMS) core 312, and a ***presence server***

310. Some of these components may be optional or not necessary for fundamental operation. The PoC architecture and signaling may be the same as is conventional as described in current standard specifications such as Push-to-talk over Cellular (PoC), Architecture, PoC Release 1.0--Architecture V1.1.0 (2003-08) Technical Specification; and Push-to-talk over Cellular (PoC), Signaling Flows, PoC Release 1.0--Signaling Flows V1.1.3 (2003-08) Technical Specification.

Paragraph [0047]: PoC server 304 includes functionality to perform the PoC service. PoC Server 304 typically performs functions such as: (1) end-point for SIP signaling; (2) end-point for real-time transport protocol (RTP) and RTP Control Protocol (RTCP) signaling; (3) SIP session handling; (4) policy control for access to groups; (5) group session handling; (6) access control; (7) do-not-disturb functionality; (8) floor control functionality (floor control is a control mechanism that arbitrates requests, from the UEs, for the right to speak); (9) talker identification; (10) participant information; (11) quality feedback; (12) charging reports; and (13) media distribution. **Presence server 310** manages presence information that is uploaded by presence user/network/external agents, and is responsible for combining the presence-related information

for a certain presentity from the information it receives from multiple sources into a single presence document.

Paragraph [0050]: End users may initiate PoC talk sessions. An INVITE request on the Is interface contains an "Accept-Contact" header with a media feature tag indicating the PoC service. IMS core 312 is able to identify the request as a PoC communication by inspecting the Accept-Contact header. A Request-URI of the INVITE contains either the pre-configured **ad-hoc** identity (for instant personal talk and ad-hoc instant group) or a group identity (for instant group talk or chat group talk). Early session establishment is used for having a session available for quick connection establishment using "REFER". The early session establishment's INVITE does not have any referred party field and can be differentiated from this against other INVITEs. A transient group identity is generated by PoC server 304 and distributed to UE 302 in the "Contact" header. From an initiating UE 302, the public user identity of the inviting user is included in the "From" header. On the signaling towards the invited user, the "From" header includes either the public user identity (instant personal talk, **ad-hoc instant group**) or the group identity (instant group talk or being added to a chat group). And creating an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local

area of the inviting mobile terminal (see Weisman: column 8 lines 1-5:

Additionally, there is a need to constrain participation in a *conference call to participants having geographic proximity to some location*. It can be the case that *the location for determining proximity is the locus of the participants' locations*). Therefore, it is obvious that a person of ordinary skill was aware that a push-to-talk server for establishing an ad hoc session in a wireless network, a presence server, a group server, and creating an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal, as taught by the combination of Willey and Weisman, regardless of the intended use of each disclosed element, was of common knowledge in the art at the time the invention was made.

As a result, the argued features are written such that they read upon the cited reference(s).

Disclosed Invention

The present application discloses push-to-talk (PTT) communications between mobile terminals, and more particularly to PTT communications with local mobile terminals in a local area of an inviting mobile terminal.

Claimed Invention

The present application claims:

As per independent **claim 42**, a push-to-talk controller in a wireless network for establishing a local ad hoc group session between an inviting mobile terminal and local mobile terminals, the push-to-talk controller comprising:

a presence server configured to identify one or more local mobile terminals that are within a local area of an inviting mobile terminal;

a group server configured to create an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal; and

a push-to-talk server configured to establish the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal.

As per independent **claim 55**, a method of establishing a local ad hoc group session in a wireless network between an inviting mobile terminal and one or more local mobile terminals, the method comprising:

receiving a request to initiate a local ad hoc group session from an inviting mobile terminal;

identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal;

creating an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal; and

establishing the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group.

As per independent **claim 64**, a push-to-talk controller in a wireless network for establishing a push-to-talk communication session for a local ad hoc group comprising an inviting mobile terminal and local mobile terminals, the push-to-talk controller comprising:

a presence server configured to identify one or more local mobile terminals that are within a local area of an inviting mobile terminal;

a group server configured to create an ad-hoc group for a local ad-hoc group session including the inviting mobile terminal and one or more of the local mobile terminals within the local area of the inviting mobile terminal that are identified as being capable of communicating a specified media type; and

a push-to-talk server configured to establish the local ad hoc group session between the inviting mobile terminal and the local mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. **Claims 42-47, 49-59, and 61-68** are rejected under 35 U.S.C. 103(a) as being unpatentable over Willey (US 20050124358 A1), hereafter "Willey," in view of Weisman et al. (US 6839417 B2), hereafter "Weisman."

Consider **claim 42**. Willey discloses:

a push-to-talk controller in a wireless network for establishing an ad hoc group session between an inviting mobile terminal and local mobile terminals (**see paragraph 0050, where Willey discusses a user equipment UE may initiate a push-to-talk**

over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session), the push-to-talk controller comprising:

a presence server (see paragraphs 0044 and 0047, where Willey discusses a system including a Push-to-talk (PTT) over Cellular (PoC) and a presence server);

a group server configured to create an ad-hoc group for an ad-hoc group session including the inviting mobile terminal and one or more mobile terminals (see paragraphs 0044 and 0050); and

a push-to-talk server configured to establish ad hoc group session between the inviting mobile terminal and the mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal (see paragraphs 0044 and 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session).

However, although Willey clearly discloses a system including a presence server wherein an end user may initiate a Push-to-talk (PTT) over Cellular (PoC), sending an invitation –INVITE request- for instant personal talk and ad-hoc instant group communication, Willey does not disclose or explicitly refer to identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal.

Weisman, in related art, discloses identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal **(see col. 8 lines 1-24, where Weisman discusses establishing ad hoc conference call with participants having geographic proximity to a location).**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the invention of Willey with the teachings of Weisman and have it include establishing ad hoc conference call with participants having geographic proximity to a location, thereby providing means for constraining participation to those likely to benefit from an ad hoc community generated by the conference call regarding an event or location (e.g. by promoting interchange of geographically local information such as traffic conditions, shortest queues, best restaurants, open party locations, etc.), as discussed by Weisman.

Consider **claims 43, 56, and 68**. Willey as modified by Weisman teaches claims 42, 55, and 64 respectively; and Willey further discloses determining whether a given mobile terminal is blocked from inclusion in the ad-hoc group based on a block list stored in memory at the group server and include the given mobile terminal within the ad-hoc group if the given mobile terminal is not blocked (see Willey: paragraphs. 0046 and 0048, where Willey discusses a granted/blocked list in the group server).

Consider **claims 44, 47, 57, and 59**. Willey as modified by Weisman teaches claims 42, 46, 55, and 58; and Willey further teaches wherein the push-to-talk server sends an invite message to the mobile terminals in the ad-hoc group, and establishes the ad hoc group session between the inviting mobile terminal and the other mobile terminals in the ad-hoc group that respond to the invite message (see Willey: paragraph. 0050).

Consider **claim 45**. Willey as modified by Weisman teaches claim 42 and further discloses a server that receives the request from the inviting mobile terminal and

forwards a list of the local mobile terminals identified by the presence server to the push-to-talk server (see Willey: paragraph 0048).

Consider **claim 46**. Willey as modified by Weisman teaches claim 42; and Willey further discloses wherein the group server is further configured to filter the local mobile terminals identified by the presence server based on a media type restriction to identify the local mobile terminals having specified media type capabilities for inclusion in the ad-hoc group (see Willey: paragraph 0050, where Willey discusses wherein an INVITE request on the Is interface of the PoC contains an "Accept-Contact" header with a media feature tag indicating the PoC service).

Consider **claim 49**. Willey as modified by Weisman teaches claim 42; and Weisman further discloses determining mobile devices location (see Weisman: col. 24 lines 53-62).

Consider **claim 50**. Willey as modified by Weisman teaches claim 49; and Weisman further discloses defining the local area based on the current location of the inviting mobile terminal (see Weisman: col. 8 lines 1-4).

Consider **claim 51**. Willey as modified by Weisman teaches claim 42; and Weisman further discloses defining a local area from the inviting mobile (see Weisman: col. 8 lines 1-4 and col. 10 lines 46-50).

Consider **claims 52 and 61**. Willey as modified by Weisman teaches claims 42 and 55; and Weisman further discloses identifying mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals that are within at least

a portion of the same cell as the inviting mobile terminal (see Weisman: col. 24 lines 58-60).

Consider **claims 53, 58, and 62**. Willey as modified by Weisman teaches claims 42 and 55; and Weisman further discloses identifying mobile terminals within the local area of the inviting mobile terminal by identifying local mobile terminals that are within a defined distance of the inviting mobile terminal (see Weisman: col. 8 lines 1-6).

Consider **claims 54 and 63**. Willey as modified by Weisman teaches claims 42 and 55; and Willey further discloses wherein the push-to-talk server comprises a memory (Willey: paragraphs 0044, where Willey discloses a Group and List Management Server); and Weisman further discloses updating groups of local mobile terminals identified as being within one or more local areas of the inviting mobile terminal (see Weisman: col. 14 lines 1-4).

Consider **claim 55**. Willey discloses:

a method of establishing an ad hoc group session in a wireless network between an inviting mobile terminal and one or more mobile terminals (**see paragraphs 0044 and 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session**), the method comprising:

receiving a request to initiate an ad hoc group session from an inviting mobile terminal (**see paragraph 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session**);

creating an ad-hoc group session including the inviting mobile terminal and one or more of the mobile terminals **(see paragraph 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session);** and

establishing the ad hoc group session between the inviting mobile terminal and mobile terminals in the ad-hoc group **(see paragraph 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session).**

However, although Willey clearly discloses a system including a presence server wherein an end user may initiate a Push-to-talk (PTT) over Cellular (PoC), sending an invitation –INVITE request- for instant personal talk and ad-hoc instant group communication, Willey does not disclose or explicitly refer to identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal.

Weisman, in related art, discloses identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal **(see col. 8 lines 1-24, where Weisman discusses establishing ad hoc conference call with participants having geographic proximity to a location).**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the invention of Willey with the teachings of Weisman and have it include establishing ad hoc conference call with participants having geographic proximity to a location, thereby providing means for constraining participation to those likely to benefit from an ad hoc community generated by the

conference call regarding an event or location (e.g. by promoting interchange of geographically local information such as traffic conditions, shortest queues, best restaurants, open party locations, etc.), as discussed by Weisman.

Consider **claim 64**. Willey discloses a push-to-talk controller in a wireless network for establishing a push-to-talk communication session for an ad hoc group comprising an inviting mobile terminal and other mobile terminals (**see paragraph 0050, where Willey discusses a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session**), the push-to-talk controller comprising:

- a presence server (**see paragraphs 0044 and 0047, where Willey discusses a system including a Push-to-talk (PTT) over Cellular (PoC) and a presence server**);

- a group server configured to create an ad-hoc group for an ad-hoc group session including the inviting mobile terminal and one or more of the other mobile terminals (**see paragraphs 0044 and 0050**); and

- a push-to-talk server configured to establish the ad hoc group session between the inviting mobile terminal and the other mobile terminals in the ad-hoc group responsive to a request from the inviting mobile terminal (**see paragraphs 0044 and 0050, where Willey discusses wherein a user equipment UE may initiate a push-to-talk over cellular (PoC) by sending an INVITE request to establish an ad-hoc group session**).

However, although Willey clearly discloses a system including a presence server wherein an end user may initiate a Push-to-talk (PTT) over Cellular (PoC), sending an

invitation –INVITE request- for instant personal talk and ad-hoc instant group communication, Willey does not disclose or explicitly refer to identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal.

Weisman, in related art, discloses identifying one or more local mobile terminals that are within a local area of an inviting mobile terminal **(see col. 8 lines 1-24, where Weisman discusses establishing ad hoc conference call with participants having geographic proximity to a location).**

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the invention of Willey with the teachings of Weisman and have it include establishing ad hoc conference call with participants having geographic proximity to a location, thereby providing means for constraining participation to those likely to benefit from an ad hoc community generated by the conference call regarding an event or location (e.g. by promoting interchange of geographically local information such as traffic conditions, shortest queues, best restaurants, open party locations, etc.), as discussed by Weisman.

Consider **claim 65**. Willey as modified by Weisman teaches claim 64; and Weisman further discloses wherein the group server is further configured to filter the local mobile terminals identified as being within the local area of the inviting mobile terminal based on a user-specified radius (*radius* reads on *distance* -see Weisman: col. 8 lines 1-6).

Consider **claims 66 and 67**. Willey as modified by Weisman teaches claim 64; and Weisman further discloses wherein the group server is further configured to filter

the local mobile terminals identified as being within the local area of the inviting mobile terminal based on a user-specified geographic region (see Weisman: col. 18 lines 32-41).

5. **Claims 48 and 60** are rejected under 35 U.S.C. 103(a) as being unpatentable over Willey (US 20050124358 A1), hereafter "Willey," in view of Weisman et al. (US 6839417 B2), hereafter "Weisman," as applied to claims 46 and 64, further in view of Winchell et al. (US 20020151321 A1), hereafter "Winchell."

Consider **claims 48 and 60**. Willey as modified by Weisman teaches claims 46 and 58, but does not particularly refer to group communication based on a subject of interest.

Winchell teaches group communication based on a subject of interest (see par. 0045 lines 1-21).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Willey as modified by Weisman and have it include group communication based on a subject of interest, as taught by Winchell, for the purpose of conveniently utilizing network resource by saving cost, as discussed by Winchell (see pars. 0005 and 0006).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event

a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Amancio González, whose telephone number is (571) 270-1106. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dwayne Bost, can be reached at (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Nghi H. Ly/

Primary Examiner, Art Unit 2617

AG/ag

December 23, 2009